

Memorandum

To: Chairman and Commissioners

Date: October 30, 2006

From: John F. Barna, Jr.
Executive Director

File No: Reference #4.7

ACTION

Ref: DELEGATION OF LIMITED AUTHORITY TO APPROVE DIRECTOR'S DEEDS
RESOLUTION G-06-

ISSUE:

Should the Commission delegate to its Executive Director or his/her designee limited authority to approve certain Director's Deeds?

RECOMMENDATION:

Staff recommends that the Commission approve the attached Resolution G-06-___ for a six-month period. The Commission can re-evaluate the effectiveness of the delegation after six months. The proposed resolution delegates limited authority to the Executive Director or his/her designee, in consultation with Commissioners, to approve Director's Deeds conveying surplus property that cannot be independently developed with an estimated market value of \$100,000 or less.

BACKGROUND:

In 1998, the Commission delegated to the Department of Transportation (Department) the authority to approve conveyances of surplus property with an estimated market value of \$100,000 or less, excepting any conveyance of developable property and access rights only. The rationale was that the delegation would reduce the time needed to dispose of low value surplus property from the Department's surplus property program. The Commission thought a conservative approach was appropriate. Further, at the time, the Commission believed that the limits and exceptions established were reasonable and prudent. In late 2004, however, the Commission's counsel opined that the Commission could not legally delegate this authority to the Department, since it is a separate agency. The Commission rescinded the delegation at its October 2004 meeting.

The Department collected data on Director's Deeds that the Commission acted upon between October 2004 and September 2006. The Commission approved a total of 293 Director's Deeds; the Commission approved the majority of these on its Consent Calendar. Of the 293 Director's Deeds, the Executive Director could have approved 129 Director's Deeds under the proposed delegation criteria. These 129 conveyances comprised 44% of the total sales, returned \$3.0 million (4.2% of total revenue of \$71,838,064) as income initially to the State Highway Account from surplus property sales, and represented 2.6% of the total market value of properties sold (\$1,697,409 of \$64,650,449). Data on potential timesavings were not available.

DISCUSSION:

Although the Commission cannot delegate this activity to the Department, Commission staff does believe that the Commission could delegate this activity to the Executive Director or his/her designee. Staff believes that the proposed delegation could result in timesavings and would allow the Commission to focus on high-value properties, properties with potential for independent development, and proposed conveyances of access rights only, which are likely to be of greater sensitivity, interest and importance.

The Department believes the delegation to Commission staff could help it provide improved customer service by reducing the delivery time on Director's Deeds by up to six weeks. The six weeks savings could result if a Director's deed was ready for approval, just after a Commission meeting. The Commission would not consider that particular Director's deed until its next meeting, up to six weeks hence. Commission staff thinks a trial period of six months on the delegation of authority is justified to test this hypothesis.

Commission and Department staff will follow these guidelines in implementing this Resolution:

- Department staff will continue to use standard appraisal practices and levels of review for appraisals of all excess land disposals.
- Department staff will provide the necessary maps, project résumé, director's deed, and other pertinent material necessary for the Executive Director or his/her designee to make an informed decision.
- Department staff will bring director's deeds for approval by the Executive Director or his/her designee at regularly scheduled intervals in a manner agreed upon by the Executive Director and the Department.
- The Executive Director shall consult with Commissioners on an as-needed basis prior to making specific approvals.
- The Executive Director or his/her designee may reject any or all submittals under this proposed Resolution at which time the Department will include the submittal for the Commission to consider at its next regularly scheduled meeting.
- Commission staff, with Department assistance, will maintain reports and report monthly to the Commission on properties approved under the authority delegated to the Executive Director by the proposed Resolution. The Commission will formally approve the Commission staff's action.

CALIFORNIA TRANSPORTATION COMMISSION

Limited Delegation of Authority To The Commission Executive Director To Approve the Sale of Excess Property

Resolution G-06-__

- 1.1 WHEREAS, Section 118 and Section 30410 of the Streets and Highways Code and Section 21636 of the Public Utilities Code provide that whenever the Department of Transportation (Department) determines that any real property or interest therein, heretofore or hereafter acquired by the State for transportation purposes, is no longer necessary for such purposes, the Department may sell, contract to sell, sell by trust deed, or exchange such real property or interest therein in the manner and upon the terms, standards, and conditions established by the Commission Transportation Commission (Commission); and
- 1.2 WHEREAS, the Commission has adopted Resolution G-98-22 which continues to provide guidance to the Department in the disposal of surplus real property; and
- 1.3 WHEREAS, the Executive Director or his/her designee shall refer to Commission's Resolution G-98-22 for guidance when evaluating proposed conveyances under this resolution; and
- 1.4 WHEREAS, the Department has many surplus parcels of a size or shape, or due to terrain, zoning or other legal constraint that results in a low appraisal value and cannot be developed independently; and
- 1.5 WHEREAS, this delegation of authority is intended to help expedite the sale of such parcels to purchasers of surplus properties.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the Executive Director of the Commission is hereby authorized to approve on behalf of the Commission, all conveyances of excess property that cannot be developed independently with an estimated market value of \$100,000 or less, excepting any conveyance of access rights only.
- 2.2 BE IT FURTHER RESOLVED that Department will:
 - will continue to use standard appraisal practices and levels of review for appraisals of all excess land disposals.
 - provide the necessary maps, project résumés, director's deeds, and other pertinent material necessary for the Executive Director or his/her designee to make an informed decision.
 - bring director's deeds for approval by the Executive Director or his/her designee at regularly scheduled intervals in a manner agreed to by the Executive Director and the Department.
- 2.3 BE IT FURTHER RESOLVED that the Executive Director shall consult with Commissioners on an as needed basis prior to specific approvals.
- 2.4 BE IT FURTHER RESOLVED that the Executive Director or his/her designee may reject any or all submittals under this Resolution at which time the Department will include the submittal(s) for the Commission to consider at its next regularly scheduled meeting.
- 2.5 BE IT FURTHER RESOLVED that Commission staff, with Department assistance, will maintain reports and report monthly to the Commission on properties approved under the authority delegated to the Executive Director by this Resolution.
- 2.6 BE IT FURTHER RESOLVED that the Commission shall formally approve the Commission staff's actions.
- 2.7 BE IT FURTHER RESOLVED that the Commission shall reevaluate this delegation in six months from the date of approval to determine its effectiveness. The Commission may elect to extend or revoke this delegation at that time.